

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

KATHY GUEVARA-BENAVIDEZ,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-09-1316-D
)	
MICHAEL J. ASTRUE, Commissioner of the)	
Social Security Administration,)	
)	
Defendant.)	

ORDER

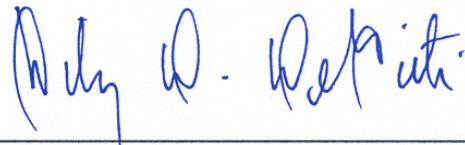
Upon consideration of the Motion for Attorney Fees Under 42 U.S.C. § 406(b) [Doc. No. 38], in light of *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), and *Wrenn v. Astrue*, 525 F.3d 931 (10th Cir. 2008), the Court finds that Plaintiff's attorneys may recover a reasonable fee for the representation of Plaintiff in this case up to the statutory limit of 25% of past-due benefits, provided the attorneys refund the amount of \$7,066.50 previously awarded under the Equal Access to Justice Act (EAJA). *See* Order of Dec. 22, 2010 [Doc. No. 34]. The supporting documents with the Motion, as well as the case record, reveal a total of 39.8 hours of legal work devoted to this case (38.6 attorney hours and 3.7 paralegal hours), which resulted in a favorable judicial decision. *See* Judgment and Order of Remand [Doc. No. 31]. After remand, Plaintiff was determined to be entitled to benefits and was awarded a past-due amount of \$43,952.87.

The Commissioner has filed a timely response to the Motion. The Commissioner takes no position concerning the merits of the request, but simply urges the Court to undertake an independent review and to determine whether the requested fee is reasonable for the services rendered.

Upon consideration of the circumstances presented, the Court finds that the requested amount of \$10,988.21 represents a reasonable fee for the work done in this case in view of the nature of the representation and the results achieved, and that this amount does not exceed 25% of Plaintiff's award of past-due benefits obtained by reason of the Judgment entered November 16, 2010. The Court further finds that the Motion was filed within a reasonable time, as determined by the Order of October 31, 2012 [Doc. No. 37]. The Court therefore finds that the Motion of Plaintiff's attorneys should be granted.

IT IS THEREFORE ORDERED that the Motion for Attorney Fees Under 42 U.S.C. § 406(b) [Doc. No. 38] is GRANTED. The Court approves an award of attorney fees under 42 U.S.C. § 406(b) to the signatory to Plaintiff's fee agreement, Steve A. Troutman of Troutman & Troutman, P.C., in the amount of \$10,988.21. Plaintiff's attorneys shall promptly refund to Plaintiff Kathy Guevara-Benavidez the amount of EAJA fees previously awarded of \$7,066.50.

IT IS SO ORDERED on this 18th day of December, 2012.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE